

Minutes of Wednesday, May 3, 2017
North Delta Water Agency Board of Directors Meeting
14120 Grand Ave. (Walnut Grove Community Church), Walnut Grove

Call to Order

Chairman Mello called the board of directors meeting to order at 9:38 a.m. on Wednesday, May 3, 2017. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1
Topper van Loben Sels, Division 2
Jack Kuechler, Division 3
Tom Hester, Division 5

Staff

Melinda Terry, Manager
Cindy Tiffany, Assistant Manager
Kevin O'Brien, Downey Brand
Gary Kienlen, MBK Engineers
Marc Van Camp, MBK Engineers

Others

See attached sign-in sheet.

Approval of the Minutes

Correction of minor typo on page 2 was made to the April 5, 2017 minutes.

MOTION by Director Hester to approve the April 5, 2017 minutes as corrected. Seconded by Director van Loben Sels, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, and Hester. ABSENT: Mahoney, Kuechler)

Presentations on Delta Water Quality Plan Update

Kevin O'Brien gave a presentation on the current process to update the Delta Water Quality Control Plan (WQCP), reviewing the status of Phase I on the San Joaquin River and tributaries and Part II on the Sacramento River and tributaries. He also summarized how NDWA successfully executed a Memorandum of Understanding in 1998 with DWR that confirmed department's obligation to provide water necessary to achieve flow and salinity standards adopted in the 1995 WQCP update, which reduced level of participation NDWA had in the D-1641 hearings.

Marc Van Camp of MBK provided a brief description of recent Scientific Basis Report the SWRCB staff released for Sacramento River watershed and tributaries recommending 75% unimpaired flows year-round and then gave a presentation showing the impacts of implementing water quality objectives that require a 50% unimpaired flow scenario for the Sacramento River system based on looking at historical flows, which highlighted the instances in which senior water supply demands will not be met or reservoirs are drained to dead pool. His presentation included criteria based on an assumed adoption of 50% unimpaired flows adopted for the Delta WQCP update and showed what would be available on an annual basis looking at historical flows. Based on his high-level review, he estimated there is not enough supply for Sacramento Valley and Delta users in 60 out of 95 years for the month of June, and only enough supply for senior water rights demand one out of 95 years in the month of August.

David Guy of Northern California Water Association discussed current settlement negotiation process his members are involved to protect senior water rights from impacts associated with the State Water Resources Control Board making decisions regarding obligations to modify or curtail water diversions to achieve new flow or salinity objectives. Their intent is to focus on developing a "functional flow" approach instead of the current

unimpaired flow approach currently being pursued by SWRCB staff. He committed to send NDWA documents describing habitat projects and programs.

Kevin O'Brien and David Guy also spoke about the benefits and status of the Sites Reservoir Project. The dam would be owned and operated by local Northern California water districts. The project would provide greater certainty for Sacramento irrigation and flows to benefit fish and water quality, and would be operated to only divert "surplus" water to storage. Metropolitan Water District of Southern California and the Westlands Water District would buy water supplies through service contracts. Project proponents plan to file their application for Prop. 1 funding in August and would appreciate a letter from NDWA to the CA Water Commission supporting their application once it is submitted.

Closed Session

The board adjourned into closed session to confer with legal counsel on the State Water Resources Control Board adjudicatory proceeding regarding Petition for Change in Water Rights of Department of Water Resources and US Bureau of Reclamation for the California water Fix Project and to also consider initiation of litigation pursuant to subdivision (c) of Section 549569.

The board reconvened in open session at 12:14 pm and Chairman Mello reported that the board of directors authorized legal counsel to commence litigation against the California Department of Fish & Wildlife (CDFW) to recover the full amount of all unpaid NDWA assessments for lands owned by CDFW within NDWA. Prior to the commencement of litigation, legal counsel is directed to send a letter to CDFW and the California Department of Water Resources in a final attempt to settle this dispute without the necessity of litigation. However, if the matter is not resolved within 30 days following the date of such letter, NDWA legal counsel is authorized and directed to commence litigation against CDFW.

Manager Report

Melinda presented a document with the final logo options and asked the board if they were ready to select one. Discussion resulted in consensus for selecting logo #2 from the top of the document.

MOTION by Director Kuechler to approve new logo for the NDWA. Seconded by Director Mello, and unanimously approved by a voice vote. (AYES: Mello, Kuechler, van Loben Sels, and Hester. ABSENT: Mahoney)

Manager reviewed recent letter and MOU from the U.S. Bureau of Reclamation (USBR) inviting NDWA to become a Cooperating Agency on the Fremont Weir Modification Project. She reminded the board that NDWA already signed a Cooperating Agency MOU for the BDCP which included the Fremont Weir project as Conservation Measure 2, however now that the conveyance facilities and ecosystem projects have been separated into individual Environmental Impact Statements, the NDWA would need to sign another MOU for the weir project. She briefly described the potential reverse flow and water quality impacts of diverting up to 6,000 cfs into the Yolo Bypass 6-8 months out of the year and recommended the board sign MOU to become a Cooperating Agency on the Fremont Weir Modification project so the Agency can review and comment on Administrative Drafts prior to release to the public.

MOTION by Director Hester to authorize Melinda Terry to sign MOU with USBR to allow NDWA to participate as a cooperating agency on the Fremont Weir Modification Project. Seconded by Director Mello, and unanimously approved by voice vote. (AYES: Mello, Kuechler, van Loben Sels, and Hester. ABSENT: Mahoney)

Melinda discussed the request from ACWA for all of their member agencies to approve a resolution supporting their policy statement recommending the SWRCB set aside its "unimpaired flow" approach for updating the

Delta Water Quality Control Plan and instead focus on developing objectives based on negotiated settlement agreements. The board like the idea of supporting negotiated agreements in lieu of the unimpaired flow approach, but did not agree with elements of the actual policy statement in ACWA's sample resolution. They postponed action and requested the Manager to revise the ACWA resolution with more general statements for the board to consider approving at the next meeting. Melinda also summarized the content of NDWA comment letter she submitted to the Delta Stewardship Council on the Notice of Preparation of EIR for their Conveyance, Storage, and Operation Amendments to the Delta Plan.

Engineering Report

Gary Kienlen distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations.

Legal Report

Kevin O'Brien provided an update on the WaterFix petition hearings, including recent ruling regarding NDWA request for DWR to produce modeling results for Contract water quality compliance locations. Melinda informed the board about recent legal action by the City of Antioch seeking similar mitigations DWR negotiated with the Contra Costa Water District pursuant to the "me too" clause in the city's contract with DWR; and reminded the board that Article 13 of the NDWA-DWR also has a "comparable treatment" clause.

Delta Activities Report

Gary provided a brief update on compliance with SB 88 water diversion measurement reporting requirements. The SWRCB has extended the reporting deadline to July 1, 2017. Many Delta land owners are working with the experimenting with a form of alternative compliance in lieu of installing measuring devices on each intake.

Adjournment

Chairman Mello adjourned the meeting at 12:54 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager